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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

COMMODITY FUTURES TRADING)	
COMMISSION,)	
)	No.: 04-cv-1512 (RBK)
Plaintiff,)	
)	
vs.)	
)	
EQUITY FINANCIAL GROUP, LLC,)	
TECH TRADERS, INC., TECH)	Hearing Date: April 7, 2006
TRADERS, LTD., MAGNUM)	
INVESTMENTS, LTD., MAGNUM)	
CAPITAL INVESTMENTS, LTD.,)	
VINCENT J. FIRTH, ROBERT W.)	
SHIMER, COYT E. MURRAY, and J.)	
VERNON ABERNETHY,)	
)	
Defendants.)	

**MEMORANDUM IN SUPPORT OF EQUITY RECEIVER’S MOTION FOR
APPROVAL OF SETTLEMENT REGARDING CLAIMS OF MARSHA GREEN
AND THOMAS AND NANCY LIST**

Stephen T. Bobo, as Equity Receiver (the “Receiver”) for defendants Equity Financial Group, LLC, Tech Traders, Inc., Tech Traders, Ltd., Magnum Investments, Inc., Magnum Capital Investments, Inc., Vincent J. Firth, and Robert W. Shimer, requests this Court to approve a settlement reached concerning the Receiver’s objections to the claims of Marsha Green and Thomas and Nancy List against Shasta Capital Associates, Ltd. (“Shasta”).

The Receiver has filed objections to the claims against Shasta filed by Marsha Green (“Green”) in the amount of \$152,000 and Thomas and Nancy List (the “Lists”) in the amount of \$95,000. The basis of the Receiver’s objections is that Green received in excess of \$120,000 which originated from Tech Traders, Inc. in repayment of an earlier investment she made with Kaivalya Holding Group (“Kaivalya”). The Lists similarly received a total of \$47,500 that originated with Tech Traders in repayment of an earlier investment they made in Kaivalya.

Kaivalya was an investment entity controlled in part by defendant Robert Shimer. Although it attempted to place a portion of its investors’ funds with a trading program operated by Coyt E. Murray in 1999 under the name of Magnum Investments, Ltd. (“Magnum”), the funds were instead converted to other uses before they reached Magnum. Accordingly, the funds of Green and the Lists, as well as the other Kaivalya investors, were never placed with Magnum. Tech Traders received nothing of value for the money it transferred to Kaivalya, which in turn used the money to repay Green, the Lists, and many of the other Kaivalya investors. Therefore, it would be inequitable for Green and the Lists to retain these funds and also be able to share in distributions on their claims from the receivership estate.

Green and the Lists have responded to the Receiver’s objections by contending, among other things, that they merely received repayments of their investments from Kaivalya, that they had no reason to believe that the funds came from Tech Traders or any such other source and that Robert Shimer had given them assurances that the funds were from other successful investments, and that they had been able to partially

corroborate this information. They also contended that they gave value to Kaivalya in return for the payments they received.

While in the process of discovery, the Receiver and Green and the Lists have further reviewed the facts and circumstances and reached a resolution of the objections, subject to approval by the Court. The proposed settlement terms are as follows:

- Green would receive a lump sum payment of \$40,000 from the Shasta estate in full satisfaction of her \$152,000 claim, including her claim to repayment in full of the \$47,000 she invested with Shasta after April 1, 2004, and the Receiver's objection would be withdrawn;
- The Lists would receive an allowed claim against Shasta in the amount of \$38,000, except that the initial distribution made to them on account of that claim will be \$15,000, which is \$1,130 higher than the 36.5% distribution already made on account of other Shasta claims. Subsequent distributions on the Lists' claim would be reduced by that \$1,130 amount. The Receiver's objection to the Lists' claim would be withdrawn;
- The settlement would reduce the initial distribution amount attributable to Green by approximately \$45,325. By virtue of the reduction of the Lists' claim, the amount of initial distribution that the Lists will be receiving will be reduced from \$34,675 to \$15,000, which is a reduction of \$19,675. In order for Tech Traders to recover the value of these settlements, the aggregate

amount of \$65,000 should be transferred from the Shasta reserve account for disputed claims to the Tech Traders' general account, and similarly the value of the reductions in later distributions attributable to these settlements should be transferred from Shasta to Tech Traders at the times those distributions are made.

- This settlement is not intended to address any issues other than the claims of Green and the Lists against Shasta and the Receiver's objections to those claims. The Receiver expressly preserves any other claims and causes of action that he may have, including any claims arising from payments made to the Ocean Mammal Institute; and
- Green and the Lists do not intend for this settlement to affect any claims they may have against any third parties, including Kaivalya Holding Group, Robert W. Shimer, Tech Traders, Inc., Tech Traders, Ltd., Magnum Investments, Ltd., Magnum Capital Investments, Ltd., Equity Financial Group, LLC, Vincent J. Firth, Coyt E. Murray or J. Vernon Abernethy.

The Receiver believes this settlement is fair and reasonable for the receivership estate for several reasons. The defenses raised by Green and the Lists are factually intensive and will likely require an evidentiary hearing to resolve. Although the Receiver believe that he has a high probability of prevailing on his objections, the outcome is not certain. In addition, the cost of taking depositions and preparing for and conducting an evidentiary hearing are significant compared to the amount at issue. The amount of those

costs is further augmented by the likelihood that the Receiver will need to testify at such a hearing and be represented there by counsel. The potential benefit from the objections is also affected by the fact that Green put in \$47,000 of her investment shortly after the asset freeze imposed on April 1, 2004. Green has contended that she is entitled to the return of that full amount, which the Receiver disputes. The Receiver also believes that an agreed resolution with Green and the Lists is preferable because they have been victimized by the defendants' fraud in the same way as the other claimants were. After evaluating these various factors, the Receiver believes that the proposed recoveries for the receivership estate by virtue of the substantial claim reductions are fair and equitable and in the best interests of investors and other creditors.

The Receiver has discussed the settlement with the CFTC's attorney, who indicated that she had no objection to the proposed terms.

For all of the foregoing reasons, the Receiver requests that the Court enter an order: (i) approving the settlement with Green and the Lists on the terms set forth above; (ii) allowing the Lists' claim in the amount of \$38,000; (iii) authorizing the Receiver to make distributions from the Shasta reserve account in the respective amounts of \$40,000 to Green as a lump sum payment and \$15,000 to the Lists as an initial distribution; (iv) authorizing the Receiver to transfer the \$65,000 reductions in initial distribution amounts resulting from this settlement from the Shasta reserve account to the account for Tech Traders and to later transfer the value of the reductions in future distributions attributable to these settlements from Shasta to Tech Traders; and (v) such other relief as may be appropriate in the circumstances.

Dated: March 6, 2006

Respectfully submitted,

Stephen T. Bobo, Equity Receiver

By: s/ Jeffrey A. Carr
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